

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of AUTUM ROSEANN COOPER,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SALLY JO COOPER,

Respondent-Appellant.

UNPUBLISHED

September 26, 2006

No. 268286

Muskegon Circuit Court

Family Division

LC No. 04-033370-NA

Before: White, P.J., and Zahra and Kelly, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating her parental rights under MCL 712A.19b(3)(j). We affirm. We decide this appeal without oral argument in accordance with MCR 7.214(E).

The trial court did not clearly err in finding that the statutory ground for termination was established by clear and convincing evidence. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Respondent resided with her ex-husband, who she said had physically and emotionally abused her when they were previously married. She had no source of income and was completely dependent on her ex-husband to provide for her and Autum. Further, she lied to her caseworker and her therapist about her residence and source of income for months and committed crimes while the case was pending. Based on respondent's conduct and capacity, there was a reasonable likelihood that respondent would continue this behavior, resulting in harm to Autum.

Respondent argues that the trial court erred in placing emphasis on the testimony of limited licensed psychologist Sandra Terwillegar over that of licensed master social worker Rose Marie Facilla, where Terwillegar was not qualified as an expert. However, neither witness was qualified as an expert at trial, and no one objected to either's opinion testimony. Terwillegar also saw respondent weekly for six months and performed the court-ordered psychological evaluation, while Facilla saw respondent bi-weekly for two months. MCR 2.613(C) provides that this Court shall give regard to the trial court's special opportunity to judge the credibility of witnesses who appeared before it. Therefore, the trial court did not clearly err in relying on

Terwillegar's testimony. The trial court did not clearly err in finding that section (j) was established by clear and convincing evidence.

The trial court also did not clearly err in its best interests determination. Although there was a bond between respondent and Autum, respondent endangered Autum by allowing her to have contact with sex offenders who preyed on young victims. Respondent also subjected the child to hurt and confusion when she manipulated petitioner into preparing Autum for return to respondent when respondent did not have an appropriate home for Autum, did not have income to support her, and continued to engage in criminal activity.

Affirmed.

/s/ Helene N. White

/s/ Brian K. Zahra

/s/ Kirsten Frank Kelly